

## **Right to Farm Program – Factsheet**

The Right to Farm Program is designed to work with and help educate farmers, residents, and municipalities about the Right to Farm Act, the Act's formal conflict resolution process, and additional strategies for resolving agricultural disputes and maintaining a positive agricultural business environment. The Right to Farm Program is coordinated by the State Agriculture Development Committee (SADC) in partnership with New Jersey's eighteen County Agriculture Development Boards (CADBs).

### **Right to Farm Act – N.J.S.A. 4:1C-1 et seq.**

The Right to Farm Act was passed by the NJ Legislature in 1983 and amended in 1998. The Act protects responsible commercial farmers from public and private nuisance actions and unduly restrictive municipal regulations.

### **Eligibility Criteria**

To be eligible for Right to Farm protection, the farm must:

- Meet the definition of “commercial farm” at N.J.S.A. 4:1C-3. A “commercial farm” is a farm operation larger than five acres producing agricultural products worth at least \$2,500 annually and satisfying the eligibility criteria for farmland assessment. For farms smaller than five acres, the annual production requirement is \$50,000, and the farm must satisfy the eligibility requirements for farmland assessment. A commercial farm may be comprised of multiple parcels, contiguous or non-contiguous, and operated together as a single enterprise.
- Be located in a zone that permits agriculture, or the farm must have been in operation as of July 2, 1998
- Conform with generally accepted agricultural management practices
- Comply with all relevant federal and state statutes and regulations
- Not pose a direct threat to public health and safety

### **Protected Activities**

Commercial farms that meet the Act's eligibility requirements may be entitled to receive Right to Farm protections for the following activities:

- Produce agricultural and horticultural crops
- Process and package the farm's agricultural output
- Operate a farm market, including the construction of building and parking areas in conformance with municipal standards
- Replenish soil nutrients and clear woodlands
- Control pests, predators, and diseases of plants and animals
- Conduct on-site disposal of organic agricultural wastes
- Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm
- Conduct pick-your-own operations
- Conduct equine farm activities, in compliance with N.J.A.C. 2:76-2B.3
- Engage in solar, wind, and biomass energy generation, in compliance with adopted rules
- Engage in any other agricultural activity as determined by the SADC and adopted through the rulemaking process

## **Formal Conflict Resolution Process**

In the event of a dispute, an individual or municipality aggrieved by the operation of a commercial farm is required to file a complaint with the County Agriculture Development Board (CADB), or the State Agriculture Development Committee (SADC) in a county where no CADB exists, prior to filing an action in court. The formal process begins once a written complaint is submitted. The CADB then holds a public hearing and issues its findings. (In some cases, depending on the nature of the complaint, the SADC may hold the initial hearing and issue findings.) Anyone aggrieved by a CADB's decision may appeal it to the SADC, and SADC decisions may be appealed to the New Jersey Superior Court, Appellate Division.

If the dispute involves compliance with local ordinances, then the CADB and SADC must seek the municipality's input during the public hearing process. The New Jersey Supreme Court has held that the CADB and SADC, when rendering decisions, must consider relevant municipal standards, balance competing interests, and consider the impact of agricultural practices on public health and safety. CADBs and the SADC address the preemption of local ordinances on a case-by-case basis, and for preemption to occur, a commercial farm must also provide a legitimate, agriculturally-based reason for not complying.

## **Informal Conflict Resolution Process**

As an alternative to the formal process, the SADC coordinates a free Agricultural Mediation Program to help farmers, neighbors, and municipalities resolve agriculture-related disputes more quickly, amicably, and in a cost-effective manner. Mediation is a voluntary process in which a trained, impartial mediator serves as a facilitator to help disputing parties examine their issues, identify and consider options, and determine if they can agree on a solution. A mediator has no decision-making authority, so successful mediation is based on the cooperation and participation of all the parties.

## **Site-Specific Agricultural Management Practices (Site-Specific AMPs)**

To address a current issue or guard against future Right to Farm complaints, a commercial farm may request that its CADB, or the SADC in a county where no CADB exists, determine whether the farm's specific operation or practices conform with generally accepted agricultural management practices. As with the formal conflict resolution process, the input of municipalities must be considered.

## **Agricultural Management Practices (AMPs)**

To be eligible for Right to Farm Act protection, a commercial farm must be in compliance with generally accepted agricultural management practice (AMP) standards. The SADC has adopted standards in ten areas: apiary; poultry manure; food processing by-product land application; commercial vegetable production; commercial tree fruit production; natural resource conservation; on-farm compost operations; fencing installation for wildlife control; aquaculture; and equine activities. Should a Right to Farm matter concern activities not addressed by an adopted AMP, the CADB or SADC will determine whether the activities in question comply with accepted practices.

## **More information**

Visit the Right to Farm Program's website, [www.nj.gov/agriculture/sadc/rtfprogram/](http://www.nj.gov/agriculture/sadc/rtfprogram/), for links to the Right to Farm Act, program regulations, adopted AMPs, formal conflict resolution decisions, site-specific AMP decisions, and additional resources. For more information, also contact David Kimmel, SADC Agricultural Resource Specialist, or Brian D. Smith, Esq, SADC Chief of Legal Affairs, at (609) 984-2504.